

Syllabus.

essential or important for the safety of the public, the security of passengers and employes, or the protection of the property of adjoining owners. The imposing of proper penalties for the enforcement of such additional duties is unquestionably within the police powers of the States. No contract with any person, individual or corporate, can impose restrictions upon the power of the States in this respect.

The objection that by allowing damages for the diminution of value in the adjoining farm caused by the failure of the company to fence its roads and to construct proper cattle guards, is taking property of the defendant without due process of law, falls with the supposed invalidity of such consequential damages which we hold to be within the discretion of the legislature to impose. *Judgment affirmed.*

MINNEAPOLIS AND ST. LOUIS RAILWAY COMPANY, Plaintiff in Error, *v.* NELSON. Error to the Supreme Court of the State of Minnesota. No. 241. Submitted April 21, 1893. Decided May 10, 1893. MR. JUSTICE FIELD. The facts in this case are similar to those in the case just decided, and by stipulation is to be disposed of in the same way Judgment is accordingly

Affirmed.

BALTIMORE AND OHIO RAILROAD COMPANY *v.*
BAUGH.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF OHIO.

No. 89. Argued December 9, 12, 1893. — Decided May 1, 1893.

Whether the engineer and fireman of a locomotive engine, running alone on a railroad and without any train attached, are fellow-servants of the company so as to preclude the latter from recovering from the company for injuries caused by the negligence of the former, is not a question of local law, to be settled by the decisions of the highest court of the State